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THE DECLARATION, VOTES, and ORDER of Assistance, of both Houses of PARLIAMENT,

Concerning the Magazine at *Hull*, and Sir *John Hotham* Governour thereof.

AND

His Majesties Answer thereunto.

With the Statute of 11. H. 7. cap. 1. mentioned in the said Answer.

Published together by His Majesties Command.

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1642.

The Declaration, Votes and Order of Assistance of both Houses of Parliament,

Concerning the Magazine at *Hull*, and Sir *John Hotham* Governour thereof.

THe Lords and Commons in Parliament, finding just cause to fear, not onely the desperate designes of Papists, and others of the malignant partie at home, but also the malice of Enemies, incited by them from abroad, Thought it necessary for the safetie of this Kingdom, to secure the Town of *Kingston* upon *Hull*, being one of the most considerable places for strength, and affording the best conveniencie for Landing of Forreign Forces; And where a great part of the Magazine of the Kingdom for that time was placed; And for that end appointed Sir *John Hotham*, one of the Members of the House of Commons, being a Gentleman of the same County, of a considerable Fortune, and approved Integrity, to take upon him the government of that Town, and to draw thither some of the Trained Bands for the Guard thereof: In which apprehension and resolution thereupon taken, they are the more confirmed by the sight of some intercepted Letters of the Lord *Digby*, (a principall person of that partie) written to the Queen and Sir *Lewis Dives*, whereby that partie discovered an endeavour to perswade His Majestie to declare Himself, and retire into some place of safetie in this Kingdom, in opposition to wayes of Accommodation with His people; And to give the better opportunity to himself, and other dangerous persons to resort thither; which could have no other end but to incline His Majestie to take Arms against His Parliament and

good Subjects, and miſerably to imbroile this Kingdom in civil Wars.

About which time Captain *Legg* (a man formerly imployed in the practice of bringing up the Army againſt the Parliament) had direction by Warrant produced by him, under the Kings hand and ſigne Manuall, to enter *Kingſton* upon *Hull*, and to draw thither ſuch of the Trained Bands as he ſhould think fit: And that the Earl of *Newcaſtle* came thither in a ſuſpicious way, and under a feigned name, and did endeavour to poſſeſſe himſelf of the ſaid Town, by vertue of the like Warrant and Authoritie.

They further conceiving, that the Magazine there being of ſo great importance to this Kingdom, would be more ſecure in the Tower of *London*, did humbly Petition His Majeſtie to give His conſent the ſame might be removed, which notwithſtanding His Majeſtie did refuſe; And thereupon ſome few ill affected perſons about the Citie of *York*, took upon them the preſumption, in oppoſition to the deſires, and in contempt of both Houſes, to Petition His Majeſtie to continue the Magazine at *Hull*, Alleadging it to be for the ſafetie of His Majeſtie (as if there could be a greater care in them of His Majeſties Royall Perſon, then in His Parliament): And His Majeſtie, the next day after the delivery of that Petition, being the three and twentieth of this inſtant April, took occaſion thereupon to go to the Town of *Hull*, attended with about four hundred Horſe, (the Duke of *York*, and the Prince *Elector* being gone thither the day before) and required Sir *John Hotham* to deliver up the Town into His hands; Who perceiving His Majeſtie to be accompanied with ſuch Force as might have maſtered the Garriſon of the Town; And having received intelligence of an intention to deprive him of His life, in caſe the King ſhould be admitted, informed His Majeſtie of the truſt repoſed in him by both Houſes of Parliament, and that he could not without breach of that truſt let Him in; beſeeching His Majeſtie to give him leave to ſend to the Parliament, to acquaint them with His Majeſties commands, and to receive their directions thereupon, which he would do with all expedition. Which Anſwer His Majeſtie was not pleaſed

ſed to accept of; but preſently cauſed him and his Officers to be proclaimed Traitors before the Walls of the Town, and thereupon diſpatched a Meſſage to both Houſes, therein charging Sir *John Hotham* with high Treaſon, and aggravating his offence, becauſe he pretended the Parliaments command: (In the mean while hindering him of all means of intelligence with the Parliament) For His Majeſtie immediatly cauſed all Paſſages to be ſtopped between him and them; And in purſuance of the ſame, one of his ſervants, who was ſent by him with Letters to the Parliament, to inform them of the truth of thoſe proceedings, was apprehended, his Letters taken from him, and his perſon deteined, whereby (contrary to the common libertie of every Subject) he was not onely deprived of means to clear himſelf of that heavie Accuſation, but of all wayes of intercourſe, either to receive directions from them that truſted him, or to inform them what had happened.

The Lords and Commons finding the ſaid proceedings to be a high violation of the Priviledges of Parliament, of which His Majeſtie had in ſeverall Meſſages expreſſed himſelf to be ſo tender; A great Infringement of the Libertie of the Subject, and the Law of the Land, which His Majeſtie had ſo often lately profeſſed ſhould be the rule to govern by, and tending to the endangering of his Majeſties Perſon and the Kingdoms peace; Thought fit, as well for the vindication of their own Rights and Priviledges, the Indemnity of that worthy perſon imployed by them, as for the cleering of their own proceedings, to publiſh theſe enſuing Votes, which were made upon a former relation that came from the King.

Die Jovis 28. April. 1642.

Reſolved upon the queſtion.

THat Sir *Iohn Hotham* Knight, according to this relation, hath done nothing but in Obedience to the Command of both Houſes of Parliament.

Reſolved, &c. That this declaring of Sir *Iohn Hotham* Traitour, being a Member of the Houſe of Commons, is a high breach of the Priviledge of Parliament.

Reſolved, &c. That this Declaring of Sir *Iohn Hotham* Traitour without due proceſſe of Law, is againſt the Libertie of the Subject, and againſt the Law of the Land.

¶ The Order of Aſſiſtance given to the Committees of both Houſes, concerning their going to Hull. April. 28. 1642.

WHereas the Earl of *Stamford*, the Lord *Willoughby* of *Parham*, Sir *Edward Ayſcoghe*, Sir *Chriſtopher Wray*, Sir *Samuel Owfield*, and Maſter *Hatcher*, are by the Lords and Commons in Parliament aſſembled, commanded to make their repair into the Counties of *Yorke* and *Lincolne*, and the Town of *Kingſtone* upon *Hull*, for ſpeciall Service for His Majeſtie, and the Peace and Safetie of the Kingdom, and accordingly have received particular Inſtructions for their better direction therein; Theſe are to require all Lords Lieutenants, and their Deputies, Sheriffs, Iuſtices of the Peace, Majors, Bailiffs, Conſtables, and all other His Majeſties Officers and loving Subjects, to be aiding and aſſiſting unto them upon all occaſions, as need ſhall require.

¶ His

His Majesties Answer

To the Declaration, Votes, and Order of Assistance of both Houses of Parliament, concerning the Magazine at *Hull*, sent May 4. 1642.

SInce Our gracious Message of the 24. of April last to both Houses of Parliament (demanding Justice for the high, and unheardof affront offered unto Us at the Gates of Hull by Sir John Hotham) is not thought worthy of an Answer; but that in stead thereof they have thought fit by their printed Votes of the 28. of April last, to own and avow that unparalleled Act of Sir John Hothams, to be done in obedience to the Command of both Houses of Parliament (though at that time he could produce no such Command) and with other Resolutions against Our Proceedings there, to publish a Declaration concerning that business, as an appeal to the People, and as if their entercourse with Us, and for Our satisfaction were now to no more purpose; though we knew this course of theirs to be very unagreeable to the Modestie & Dutie of former times, and unwarrantable by any Precedents but what themselves have made; yet We are not unwilling to joyn issue with them in this Way, and to let all the world know, how necessary, just, and lawfull all Our Proceedings have been in this Point, and that the defence of these Proceedings is, The defence of the Law of the Land, Of the Libertie and Propertie of the Subject, and that by the same Rule of Justice, which is now offered

to

to Us, all the private Interest and Title of all Our good Subjects to all their Lands and Goods are confounded and destroyed. Master Pym himself tels you, in his Speech against the Earl of Strafford (published by the Order of the House of Commons) The Law is the Safeguard; The Custodie of all private Interests; your Honours, your Lives, your Liberties, and Estates, are all in the keeping of the Law; without this, every man hath a like right to any thing: And We would fain be answered, what Title any Subject of Our Kingdom hath to his House or Land, that we have not to Our Town of Hull? Or what right hath he to his money, Plate, or Jewels, that We have not to Our Magazine or Munition there. If We had ever such a Title, We would know when we lost it. And if that Magazine and Munition (bought with Our own Money) were ever Ours; When, and how that Propertie went out of Us. We very well know the great and unlimited Power of a Parliament, but We know as well, that it is onely in that sense, as We are a part of that Parliament. Without Us, and against Our Consent, the Votes of either, or both Houses together, must not, cannot, shall not (if We can help it, for Our Subjects sake as well as Our Own) forbid any thing that is enjoyned by the Law, or enjoyn any thing that is forbidden by the Law; But in any such alteration which may be for the peace and happinesse of the Kingdom, We have not, shall not refuse to consent: And We doubt not, but that all Our good Subjects will easily discern in what a miserable insecurity and confusion they must necessarily and inevitably

[illegible] Descents may be altered, Parcheses avoided, Allurances and Confederacies cancelled, the Soveraign Legall Authority despised and resisted, by Votes or Orders of either, or both Houses: And this We are sure is Our case at Hull. And as it is Ours to day, by the same time it may be theirs to morrow.

Against any desperate designes of the Papists, We have sufficiently expressed Our zealous intentions, and shall be as forward to adventure Our own Life and Fortune to oppose any such Designes as the meanest Subject in Our Kingdom.

For the Malignant party, as the Law hath not to Our knowledge defined their condition, so hath neither House presented them to Us, under such a notion as We may well understand whom they intend, and We shall therefore only enquire after, & avoid the Malignant party under the Character of persons disaffected to the peace and Government of the Kingdom, and such who (neglecting and despising the Laws of the Land) have given themselves other Rules to walk by, and so dispensed with their Obedience to Authority. Of these persons (as destructive to the Common weale) We shall take all possible Caution.

Why any Letters intercepted from the Lord Digby (wherein he mentions a Retreate to a place of Safety) should hinder us from taking Our own part, and how We have opposed any wayes of Accommodation with Our particularities, and what wayes and Overtures have been offered in any way, or like any desire of such Accommodation, or whether Our Message of the 25. of January

laſt (ſo often in vain preſſed by Us) have not ſufficiently expreſſed Our earneſt deſire of it, let all the world judge: Neither is it in the power of any perſons to encline us to take Arms againſt Our Parliament, and Our good Subjects, and miſerably to imbroil this Kingdom in Civil Wars. We have given ſufficient evidence to the world how much Our Affections abhor, and Our heart bleeds at the apprehenſion of a Civil War; And let God and the world judge, if Our Care & Induſtry be onely to defend and protect The Liberty of the Subject, The Law of the Kingdom, Our own juſt Rights (part of that Law) and Our Honour (much more precious then Our Life) and if in oppoſition to theſe any Civill Wars ſhall ariſe, upon whoſe Account the Blood and deſtruction that muſt follow muſt be caſt: God, and Our own conſcience tells Us that We are clear.

For Captain Leggs being ſent heretofore to Hull (though by the way, this is the firſt time We ever heard that he was accuſed for the practice of bringing up the Army againſt the Parliament, neither do We yet know that there is ſuch a charge againſt him) or for the Earl of Newcaſtles being ſent thither by Our Warrant and Authority, We asked a Queſtion long ago in Our Anſwer to both Houſes concerning the Magazine at Hull, which We have cauſe to think is not eaſie to be anſwered: Why the generall rumour of the Deſigne of Papiſts in the Northern parts, ſhould not be thought ſufficient ground for Us to put in ſuch a perſon of Honour, Fortune, and unblemiſhed Reputation (as the Earl of Newcaſtle is known to be) into a Town and

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Fort of Our own, where Our own Magazine lay; And yet the same Rumour be Warrant enough to commit the same Town and Fort without Our consent to the hands of Sir John Hotham, with such a Power as is now too well known and understood. How Our Refusall to have that Magazine removed upon the Petition of both Houses, could give an advantage against Us to have it taken from Us; And whether it was a refusall, all men will easily understand who read Our Answer to that Petition, to which it hath not been yet thought fit to make any Reply.

For the Condition of those persons who presented the Petition to Us at York, (whom that Declaration calls, Some few ill affected persons about the City of York) to continue the Magazine at Hull, We make no doubt but that Petition will appear to be Attested both in number and weight, by persons of Honour and Integrity, and much more conversant with the Affections of the whole County, then most of those Petitions which have been received with so much Consent and Approbation; And for their presumption of interposing their advice, We the more wonder at that Exception, when such Encouragement hath been given, and thanks declared to multitudes of mean, unknown People, Prentices and Porters, who have accompanied Petitions of very strange natures.

For the manner of Our going to Hull, We have clearly set forth the same in Our Message to both Houses of that Business; And for any intelligence given to Sir John Hotham of an Intention to deprive him of his life, as We know there was no such

Intention of Ours, having given him all positive assurance of the same at Our being there, so nor are we sensible of such intelligence was given; Or if it were, it was by some villain, who had nothing but malice, or design to fright him from his due Obedience, to warrant him. And Sir John Hotham had all the reason to allure himself, that his life would be in much more danger by refusing to admit his King into his own Town & Fort, then by yeelding him that obedience, which he owed by his Oathes of Allegiance and Supremacie, and the Protestation, and he well knew was due and warrantable by the Laws of the Land.

For the number of Our Attendants (though that could be no warrant for such a disobedience in a Subject) it is well known as we expressed in Our Message to both Houses, to which credit ought to have been given) that we offered to go into the Town with twenty Horse onely; Our whole Traine being unarmed. And whosoever thinks that too great an Attendance for Our Self, and Our two Sons, have we an Intention to bring us to a meaner Retinue then they yet will allow.

Here then is Our Case (of which let all the world judge) We endeavoured to enter a Town and Fort of Our own, wherein Our own Magazine lay, a Subject in defiance of us shuts the Gates against us, with armed men refuses, denies and opposes Our Entrance, tells us in plain terms, We shall not come in. We do not pretend to understand much Law, yet in the point of Treason, we have hitherto learning taught us this parliament, and if the sense of the Statute 25. E. 3. Cap. 2. be

not

not very pertinent from the Letter. Sir John Hotham's Act was no new upon Creation: And we had been contemptible Traitors, if we had (after all those circumstances of Grace and Favour then heaped upon him) made any Scruple to maintain him a Traitour. And whether he be so or no, if he shall render himself, we will require no other Triall, then that which the Law hath appointed to every Subject, and which we are confident we have not (in the least degree) in those proceedings violated; no more then we have done the Priviledge of Parliament by endeavouring in a just way to challenge Our own unquestionable Priviledges: for that in such a case, the declaring him Traitour, being a Member of the House of Commons, without Process of Law, should be a breach of Priviledge of Parliament (of which we are sure none pretends to Creation, Felonie or breach of the Peace) against the Liberty of the Subject, or against the Law of the Land, we shall have other Reasons then bare words.

We would know if Sir John Hotham had (with those forces by which he kept us out of Our Town of Hull) marched up to the gates of York (which he might as legally have done) would we have staid from declaring him Traitour, the Processe of Law might have issued against him? Will fears and jealousies dispense with reall and necessary formes, and must we when actuall war is levied upon us, observe formes, which the Law it self doth not enjoyn? The Cause is truely stated, let all the world judge (unlesse the meer Sitting of a Parliament doth suspend all Lawes, and we are

the onely Person in England against whom Treason cannot be committed) where the fault is: And whatsoever Course we shall be driven to for the Vindication of this Our Privilege, and for the Recovery and maintenance of Our known and undoubted Rights, we do promise in the presence of Almighty God, and as we hope for his blessing in Our successe, that we will to the utmost of Our Powers defend and maintain the true Protestant Profession, the Law of the Land, the Liberty of the Subject, and the just Privilege and freedome of Parliament.

For the Order of Assistance given to the Committees of both Houses, concerning their going to Hull, we shall say no more, but that those persons named in that Order, we presume will give no Commands, or Our good Subjects obey other, then what are warranted by the Law (how large and unlimited soever the directions are, or the Instructions may be) for to that rule we shall apply Our own Actions, and by it require an account from other men. And that all Our good Subjects may the better know their dutie in matters of this nature, we wish them carefully to peruse the Statute in the eleventh yeer of H. 7. Chap. 1.

We conclude with Master Pyms own words: If the Prerogative of the King overwhelm the liberty of the People, it will be turned to Tyranny; If Liberty undermine the Prerogative, it will grow into Anarchy, And so we say into Confusion.

Anno

Anno 11° Hen. 7. Cap. 1.

None that ſhall attend upon the King, and do him true Service, ſhall be attainted, or forfeit anything.

THe King our Soveraign Lord calling to his remembrance the dutie of allegiance of his ſubjects of this his Realm, and that they by reaſon of the ſame are bound to ſerve their Prince and Soveraign Lord, for the time being in his wars, for the defence of him and the Land, againſt every Rebellion, power, and might, reared againſt him, and with him to enter and abide in ſervice in battell, if caſe ſo require, and that for the ſame ſervice, what fortune ever fall by chance in the ſame battell, againſt the minde and will of the Prince (as in this land ſometime paſſed hath been ſeen) that it is not reaſonable but againſt all Laws, reaſon, and good conſcience, that the ſaid Subjects going with their Soveraign Lord in wars, attending upon him in his perſon, or being in other places by his commandment within this land or without, any thing ſhould loſe or forfeit for doing their true dutie and ſervice of allegiance.

It be therefore Ordained, Enacted, and Eſtabliſhed by the King our Soveraign Lord, by the advice and aſſent of the Lords Spirituall, and Temporall, and the Commons in this preſent Parliament aſſembled, and by Authority of the ſame, That from henceforth no manner of perſon, or perſons whatſoever he or they be, that attend upon the King, and Soveraign Lord of this Land for the time being, in his perſon, and do him true and faithfull ſervice of Allegiance in the ſame, or be in other places by his Commandment

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in his Heirs, within this Land, or without. That for the said Death and Crime of Allegiance, he, or they so committing, commit or attempt any Treason, or other offences for that cause, by Act of Parliament, or otherwise by any Process of Law, whereby he or they may forfeit or lose Life, Lands, Tenements, Rents, Possessions, Inheritances, Goods, Debts, or any other things: but to be for ever free and discharged of the same, and every part thereof. And if any Act, offence, or other Process of the Law hereafter thereupon for the same happen to be made contrary to this Ordinance, that thereof Act, or Acts, or other Process of the Law, whatsoever they shall be, stand and be utterly void. Provided alway, that no person, or persons shall take any benefit, or advantage by this Act, which shall hereafter decline from his, or their said Allegiance,

FINIS.